Cr.A No.705/2000

15.11.2007 Present: Mr. Som Dutt Vasudeva, Additional Advocate General, for the appellant.

Convict Pinku in custody of HC Jeet Kumar No.902, Constable Pritam Singh No.1124, Police Station Baijnath, District Kangra, H.P.

Mr. Jagan Nath Sharma, vice counsel for convict-Pinku.

Convict Pinku has been heard on the question of quantum of sentence. What he says has been recorded in the form of his statement, separately. His plea is that he is a poor man and is an agriculturist by occupation and his holding is very small. He further says that he has small children to look after and maintain. Learned counsel for the convict has drawn my attention to para-8 of the judgment of this Court, per which it has been observed that even though it is not clear from the record as to who caused the injury that resulted in the fracture of parital bone of PW-1 Neeru, yet the evidence on record shows that the convict and two unidentified persons had the common intention and someone from among them caused the fracture. He says that since it is not clear as to who gave the blow and the matter is very old, being of the year 1994, leniency may be shown in the matter of award of punishment.

Looking to the facts and the circumstances of the case and the seriousness of the offence, because injury was caused on the vital part of the body of PW-1 Neeru, i.e., the head, the submission made by the learned counsel that benefit of the probationary provisions of law be given to the convict or he should be let off by imposing the punishment of fine, is rejected. The convict is sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.2,000/-, in default of payment of fine to undergo rigorous imprisonment for three months. Jail warrant be prepared accordingly.

November 15, 2007(sd) (Surjit Singh), J.